

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF OKLAHOMA**

**1 ALLSTATE VEHICLE AND
PROPERTY INSURANCE
COMPANY**

Plaintiff,

v.

1 CLOVER MEREDITH

Defendant.

Case No, CIV-22-373-JAR

**MOTION FOR ORDER
ALLOWING SERVICE BY PUBLICATION**

COMES NOW the Plaintiff, Allstate Vehicle and Property Insurance Company (“Allstate”), by and through counsel of record, and hereby seeks an order allowing service by publication on Defendant, Clover Meredith. In support of this Motion, Allstate advises the Court as follows:

1. Fed.R.Civ.P 4(e)(1) allows for service of summons as permitted by state law.

Specifically, Rule 4(e)(1) provides as follows:

- (e) **Serving an Individual Within a Judicial District of the United States.** Unless federal law provides otherwise, an individual—other than a minor, an incompetent person, or a person whose waiver has been filed—may be served in a judicial district of the United States by:

- (1) following state law for serving a summons in an action brought in courts of general jurisdiction in the state where the district court is located or where service is made;

Fed.R.Civ.P. 4(e)(1).

2. Pursuant to Oklahoma state law, a summons may served by publication. *See*

12 O.S. § 2004(C)(3) Specifically, section 2004(C)(3) provides in relevant part as follows:

3. SERVICE BY PUBLICATION

- a. Service of summons upon a named defendant may be made by publication when it is stated in the petition, verified by the plaintiff or the plaintiff's attorney, or in a separate affidavit by the plaintiff or the plaintiff's attorney filed with the court, that with due diligence service cannot be made upon the defendant by any other method.

- c. Service pursuant to this paragraph shall be made by publication of a notice, signed by the court clerk, one (1) day a week for three (3) consecutive weeks in a newspaper authorized by law to publish legal notices which is published in the county where the petition is filed. If no newspaper authorized by law to publish legal notices is published in such county, the notice shall be published in some such newspaper of general circulation which is published in an adjoining county. All named parties and their unknown successors who may be served by publication may be included in one notice. The notice shall state the court in which the petition is filed and the names of the plaintiff and the parties served by publication, and shall designate the parties whose unknown successors are being served. The notice shall also state that the named defendants and their unknown successors have been sued and must answer the petition on or before a time to be stated (which shall not be less than forty-one (41) days from the date of the first publication), or judgment, the nature of which shall be stated, will be rendered accordingly. If jurisdiction of the court is based on property, any real property subject to the jurisdiction of the court and any property or debts to be attached or garnished must be described in the notice.

12 O.S. § 2004(C)(3) & (C)(3)(a).

3. In compliance with 12 O.S. § 2004(C)(3)(a), Allstate hereby submits as Exhibit 1 to this motion the Affidavit of its counsel of record, K. Clark Phipps, verifying that with due diligence service cannot be made upon Defendant, Clover Meredith, by any method other than publication.

WHEREFORE, premises considered, Allstate requests an order allowing service by publication on Defendant, Clover Meredith. A proposed order is submitted herewith.

Respectfully submitted,

**ATKINSON, HASKINS, NELLIS,
BRITTINGHAM, GLADD & FIASCO**
A Professional Corporation

/s/ Galen L. Brittingham
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CERTIFICATE OF SERVICE

I hereby certify that on the 9th day of February, 2023, I electronically transmitted the attached document to the Clerk of Court using the ECF System for filing and transmittal of Notice of Electronic Filing to the following ECF registrants:

Clover Meredith
822 6th Street
Wilson, Oklahoma 73463
Pro Se Defendant

/s/ Galen L. Brittingham

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